

EXHIBIT E

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MICHAEL WARD d/b/a BRAINTEASER
PUBLICATIONS,

Plaintiff,

vs.

BARNES & NOBLE, INC., STERLING
PUBLISHING CO., INC., FRANCIS HEANEY,
and PATRICK BLINDAUER,

Defendants.

13-cv-7851 (JMF)

**DEFENDANTS' SPECIAL VERDICT
FORM**

We, the jury impaneled in this matter, hereby answer the Special Verdict questions put to us as follows:

1. Did Plaintiff author the single page of game instructions that appear in the Original Sterling Books?

YES _____

NO _____

If you answered "NO" to Question No. 1, do not answer the remaining questions. Sign and date the Special Verdict Form and notify the bailiff. If you answered "YES" to Question No. 1, proceed to Question No. 2.

2. Does Plaintiff own a copyright registration that encompasses the single page of game instructions that appear in the Original Sterling Books?

YES _____

NO _____

If you answered "NO" to Question No. 2, do not answer the remaining questions. Sign and date the Special Verdict Form and notify the bailiff. If you answered "YES" to Question No. 2, proceed to Question No. 3.

3. Has Plaintiff proved by a preponderance of the evidence that the game instructions that appear in the book entitled *Trivia Hangman* by Francis Heaney infringe Plaintiff's copyright in the Original Sterling Books?

YES _____

NO _____

If you answered "NO" to Question No. 3, then regardless of your answers to Question Nos. 4 and 5, Francis Heaney is not liable for copyright infringement.

4. Has Plaintiff proved by a preponderance of the evidence that the game instructions that appear in *Hollywood Hangman* by Patrick Blindauer infringe Plaintiff's copyright in the Original Sterling Books?

YES _____

NO _____

If you answered "NO" to Question No. 4, then regardless of your answers to Question Nos. 3 and 5, Patrick Blindauer is not liable for copyright infringement.

5. Has Plaintiff proved by a preponderance of the evidence that the game instructions that appear in *Science Hangman*, *Geography Hangman*, and *Spelling Bee Hangman* by Jack Ketch infringe Plaintiff's copyright in the Original Sterling Books?

YES _____

NO _____

If you answered "NO" to all of the previous three questions (Question Nos. 3, 4, and 5), do not answer the remaining questions. Sign and date the Special Verdict Form and notify the bailiff. If you answered "YES" to any of the previous three questions (Question Nos. 3, 4, or 5), proceed to Question No. 6.

6. If you answered "YES" to any of Question Nos. 3, 4, or 5, do you find that the infringement constitutes a *de minimis* use?

YES _____

NO _____

If you answered "YES" to Question No. 6, do not answer the remaining questions. Sign and date the Special Verdict Form and notify the bailiff. If you answered "NO" to Question No. 6, proceed to Question No. 7.

7. If you answered "YES" to any of Question Nos. 3, 4, or 5, and "NO" to Question No. 6, do you find that the infringement was committed innocently?

YES _____

NO _____

If you answered "YES" to Question No. 7, what statutory damages do you award Plaintiff (between \$200 and \$30,000)?

\$_____

If you answered "YES" to Question No. 7, do not answer the remaining question. Sign and date the Special Verdict Form and notify the bailiff. If you answered "NO" to Question No. 7, proceed to Question No. 8.

8. If you answered "YES" to any of Question Nos. 3, 4, or 5, and "NO" to Question Nos. 6 and 7, do you find that Defendants' infringement was committed not willfully or willfully?

NOT WILLFULLY _____

WILLFULLY _____

If you answered “NOT WILLFULLY” to Question No. 8, what statutory damages do you award Plaintiff (between \$750 and \$30,000)? If you answered “WILLFULLY” to Question No. 8, what statutory damages do you award Plaintiff (between \$750 and \$150,000)?

\$_____

SIGNED this ____ day of June, 2015

JURY FOREPERSON